IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

CRP.No. 2060 of 2003(C)

AGAINST THE ORDER DATED 23/10/2003 IN EP. 77 /1998 IN OS.977/1992 of PRL.MUNSIFF COURT, CHERTHALA

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REVN. PETITIONER: PETITIONERS IN E.P.NO.145/2003

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1. PADMAVATHY AMMA,
   W/O. LATE X.G.KOCHUKRISHNA PILLAI,
   PURARURESWARATHU MADATHIL, VALAMANGALAM,
   VADAKKUMURI, THURAVOOR THEKKU VILLAGE,
   CHERTHALA.

2. RAMA BALAKRISHNAN NAIR,
   D/O. PADMAVATHY AMMA, PURARURESWARTHU MADATHIL,
   VALAMANGALAM VADAKKUMURI, THURAVOOR THEKKU
   VILLAGE, CHERTHALA.

BY ADV. SRI.G.N.NAIR
SRI.JOHN JOSEPH(ROY)

RESPONDENTS: RESPONDENTS IN E.P.NO.145/2003

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1. K.K.MADUSUDANAN NAIR,
   KALATHIPARAMBIL HOUSE, CHETHURTHYAKARI MURI,
   PULINKUNNU VILLAGE, REPRESENTED BY HIS FATHER &
   POWER OF ATTORNEY SRI.K.S.KOCHU PULLAI.

2. G.SIVARANI, KOLASSERY KOIPARAMBIL,
   THURAVOOR, VALAMANGALAM VADAKKUMURI,
   CHERTHALA.

3. RAVINDRANATHA PANICKER, ALIAS RAVI,
   HUSBAND OF G.SIVARANI, KOLASSERY KOIPARAMBIL,
   THURAVOOR, VALAMANGALAM VADAKKUMURI,
   CHERTHALA.

BY ADV. SRI.J.OM PRAKASH

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRP NO.2060/2003

ORDER IN I.A.2468/2003 IN CRP NO.2060/2003

dismissed

6.7.2007 SD/- PIUS C.KURIAKOSE, JUDGE

/TRUE COPY/
P.A. TO JUDGE

PIUS C. KURIAKOSE, J.

C.R.P. NO.2060 OF 2003

Dated this the 6th day of July , 2007

O R D E R

The petitioners who are defendants 3 and 4 in O.S. No.977/1992 are aggrieved by the order passed by the Execution Court on an Execution Petition filed by them. The decree under Execution was a compromise decree under which reliefs had been given to the petitioners and also to the other defendants. The relief gained by the petitioners under the decree was that they were given the right to make use of a pathway and that such right will be recited in a sale deed to be executed by the plaintiff in favour of defendants 1 and 2. The other relief was that the defendants 1 and 3 will be under obligation to make the pathway in question walkable and cartable by doing whatever is necessary.

2. Grievance of the petitioners in their Execution Petition was two fold. Firstly, no sale deed has been executed

incorporating the right of way which has been specifically granted to the petitioners under the decree. Second grievance was that the way is even now not rended cartable.

2. Heard Sri.John Joseph, the learned counsel for the petitioners and Sri.J.Omprakash the learned counsel for the respondents. The learned counsel for the petitioners would place before me a copy of sale deed dated 25.5.2000. On going through the above sale deed I find that the same has been executed in pursuance to the directions in the decree. But it is not recited in the sale deed that the petitioners will also have a right of way. It could have been ideal if the draft of the sale deed was also placed before the Execution court and the court approved the draft with notice to the petitioners also. I am not prepared to blame the court for this, because the very execution of the sale deed had become fait accomplie even before the petitioners filed their execution petition. I am of the view that the petitioners do not have to be aggrieved by the non inclusion of a specific recital in the sale deed. They will also be entitled to the right of way over the pathway because the sale deed is executed pursuant to the decree. It is recited in the deed that

the pathway in question is being brought into existence in implementation of the terms of the compromise. If anybody obstructs user of the pathway by the petitioners it is open to the petitioners to pursue their grievance before the Execution Court. The petitioners' right in that regard is declared. The petitioners do not have to be aggrieved by the non inclusion of specific recital.

As regards the other grievance, I find that the impugned order grants redressal to the petitioners. Under the impugned order an Amin has been deputed for doing the necessary works on the pathway for making pathway walkable and cartable. Thus in my view the petitioners cannot have any legitimate grievance about the impugned order.

The writ petition fails and dismissed.

PIUS C. KURIAKOSE,
JUDGE.

dpk